

HONORABLE JAMES L. ROBERT

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

HANA MODZ, LLC, an Illinois Limited  
Liability Company

Plaintiff,

vs.

VAPORCRYPT, INC., also known as  
VAPORCRYPT, an Oregon Corporation; ERIK  
SELLGREN, an individual

Defendants.

Case No.: C14-01194JLR

ANSWER TO COMPLAINT

Defendants Vaporcrypt, Inc. ("VaporCrypt") and Erik Sellgren ("Sellgren") hereby respond to  
Plaintiff Hana Modz, LLC ("Hana Modz") as follows:

**I. INTRODUCTION**

1. Defendants are without information sufficient to form a belief as to the truth of the  
allegations of paragraph 1 and therefore deny the same.

**II. THE PARTIES**

2. Defendants are without information sufficient to form a belief as to the truth of the  
allegations of paragraph 2 and therefore deny the same.

3. Admit that VaporCrypt, Inc. is an Oregon corporation.

1           4.     Admit that Sellgren resides in Seattle, WA.

2           5.     Defendants are without information sufficient to form a belief as to the truth of  
3 the allegations of paragraph 5 and therefore deny the same.

4           6.     This paragraph does not require a response.

5                           **III.    JURISDICTION AND VENUE**

6           7.     Admit.

7           8.     Admit.

8           9.     Admit.

9                           **IV.    FACTS**

10           10.    Defendants are without information sufficient to form a belief as to the truth of  
11 the allegations of paragraph 10 and therefore deny the same.

12           11.    Defendants are without information sufficient to form a belief as to the truth of  
13 the allegations of paragraph 11 and therefore deny the same.

14           12.    Defendants are without information sufficient to form a belief as to the truth of  
15 the allegations of paragraph 12 and therefore deny the same.

16           13.    Defendants are without information sufficient to form a belief as to the truth of  
17 the allegations of paragraph 13 and therefore deny the same.

18           14.    Defendants are without information sufficient to form a belief as to the truth of  
19 the allegations of paragraph 14 and therefore deny the same.

20           15.    Admit that Vaporcrypt sells electronic cigarette products through its website.

21           16.    Deny.

1           17. Admit that defendants are not authorized distributors of Hana Modz products, and  
2 deny the remainder as Defendants are without information sufficient to form a belief as to the truth  
3 of the remaining allegations of paragraph 17.

4           18. Defendants are without information sufficient to form a belief as to the truth of the  
5 allegations of paragraph 18 and therefore deny the same.

6           19. Admit that at one point the words and phrases Hana Modz, clone and “exact 1:1  
7 replica and would be almost impossible to differentiate from the real thing” were on the  
8 [www.vaporcrpt.com](http://www.vaporcrpt.com) website, deny the remaining allegations insofar as this paragraph appear to  
9 calls for a legal conclusion, and defendants are otherwise without information sufficient to form a  
10 belief as to the truth of the remaining allegations of paragraph 19.

12           20. Defendants are without information sufficient to form a belief as to the truth of  
13 the allegations of paragraph 20 and therefore deny the same.

14           21. Deny.

15                   **COUNT 1 – TRADEMARK INFRINGEMENT (15 USC §1125(a))**

16           22. Defendants incorporate answers to paragraphs 1-21 as though fully set forth herein.

17           23. Deny insofar as this paragraph appears to call for a legal conclusion that may or may  
18 not relate to the actual and present controversy.

19           24. Deny.

20           25. Deny.

21           26. Deny.

22           27. Deny.

23           28. Deny.

24           29. Deny.

**COUNT II – UNFAIR COMPETITION**

30. Defendants incorporate answers to paragraphs 1-29 as though fully set forth herein.

31. Deny.

32. Deny.

33. Deny.

34. Deny.

35. Deny.

36. Deny.

**AFFIRMATIVE DEFENSES**

Defendants' affirmative defenses are set forth as follows:

**FIRST AFFIRMATIVE DEFENSE**

37. Plaintiff fails to state a claim upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

38. Defendant Vaporcrypt, Inc. is a corporation lawfully organized in Oregon; as a result, Plaintiff is not entitled to bring a claim against Erik Sellgren merely for his alleged actions as an agent of Vaporcrypt.

**THIRD AFFIRMATIVE DEFENSE**

39. Defendants have not engaged in false advertising in connection with the promotion of its products.

**FOURTH AFFIRMATIVE DEFENSE**

40. Defendants' actions in connection with the Plaintiff's common law trademarks do not constitute a violation of the Washington Consumer Protection Act.

**FIFTH AFFIRMATIVE DEFENSE**

1           41. Defendants' uses (if any) of the phrases and words clone, replica and Hana Modz  
2 constitute mere comparative advertising and is not actionable under 15 USC §1125(a).

3                                   **SIXTH AFFIRMATIVE DEFENSE**

4           42. Plaintiff's claims are barred by the equitable doctrines of estoppel, unclean hands,  
5 waiver and/or laches.

6                                   **PRAYER FOR RELIEF**

7           Wherefore, Defendants ask that all of Plaintiff's claims be dismissed and that Plaintiff be  
8 responsible for Defendants' costs and attorney's fees pursuant to the Lanham Act and RCW 19.86  
9 and that the court grant other relief that it deems proper.  
10

11           DATED this 23<sup>rd</sup> day of September, 2014.

12                                   For Defendants

13                                   **VERITRADEMARK**

14                                   s/ Daniel M Bronski

15                                   \_\_\_\_\_  
16                                   Danny Bronski, WSBA #34385  
17                                   VeriTrademark  
18                                   1411 East Olive Way  
19                                   Seattle, WA 98122  
20                                   Ph. 206/588-5981, [danny@veritrademark.com](mailto:danny@veritrademark.com)

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that on September 24, 2014, I caused the foregoing **ANSWER TO COMPLAINT** to be filed via the Court's CM/ECF system which will provide notice to counsel for Plaintiff.

I declare under penalty of perjury under the laws of the United States and the State of Washington that the foregoing is true and correct and that this declaration was executed on September 24, 2014, at Seattle, Washington.

/s/ Daniel M Bronski

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Danny Bronski